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1950 **File No.** 0/12

RHABC **DEPARTMENT** **B Class**
BRANCH

ERS Dep No. 93 - 57

Subject:—

Karnatak

Tourist Traffic
Exemption from Rent
Act — to Hotels

Copies from file 0/12
B. Dept
B Class Common
23/3

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B Class

Karnatak

File No. 0/12

Std. Scott. Slip 24-A

PRESS NOTE.

After careful consideration of the representations made to Government by the owners of new buildings regarding the allotments to be made in new buildings Government have decided to declare the policy Government wishes to follow in approving of these Allottments under the Bombay Land Requisition Act. The landlords proposed to be erected by them and these proposals must be sent to the office of the Controller of Accommodation at least one month before the building is ready for occupation. Government would not ordinarily interfere with these repairs, proposals but this would be subject to the following conditions :-

1. There should be absolutely no element of pugree in any form. If it appears to the Government that any consideration in the nature of pugree is involved Government will be at liberty to requisition the whole building and the landlord will not be given option to propose any other alternative allotment.

3. The allottees must be reisidents of Bombay on the date of th allotments and must have been constinuously residing in Bombay from a date at least six months prior to 1st January 1949.

4. Satisfactory documentary proof of their continuous residence should be submtitted to Government before proposing allotments. If any allotments are not in accordance with the above Government will be at liberty to requisition the premises in question.

5. The proposals of the landlord must contain full particulars of the each of prem ses occupied by his allottees vis:-

*1. The Provisions of the Rent Act will continue to be in force.

1. The particulars of old premises, if any, of the tenants who are alloted new tenements by the landlords.
2. The exact location and address.
3. Rent.
4. Name of the Landlord.
5. The date when these premises would be vacant.
6. Whether they would be completely vacant.

Q. If not, why not.

This concession is granted as an experimental measure for year. If it comes to the notice of Government within the course of next year that this concession has been abused it would be totally with drawn and Government will consider the question of imposing full constrol over new buildings.

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GOVERNMENT OF INDIA,
MINISTRY OF TRANSPORT.
REGIONAL TOURIST OFFICE.

Victoria Terminus,
Bombay, 1.
11th August 1950.

Dear Mr. Dravid,

With reference to my conversation with you on 5/8/50, I am to enquire whether the following concessions could be granted to the Hotels and Restaurants in Bombay State.

The Hotel and Restaurant Association of the Bombay Region have often represented to the Ministry of Transport, that there is a great deal of anomaly with regard to the entertainment regulations and labour rules of the Bombay Government. According to the Home Department's instructions entertainments in hotels & dreataubants can go on upto mid-night , and on certain special nights an extension of few pf a few hpurs is also granted. But under the existing labour rules Waiters and other dining room staff are not allowed tobe employed after 11 p.m. though there is a proviso that half-an-hour's grace can be given. This means that between 11-30 p.m., and mid-night t ere is no service availablethoughthe entertainment is supposed to go on till midnight. Youwill appreciate, however, t a any entertainment without the attendant service will be meaningless. The disappearance of waiters after 11' O'clock tends to close down the entertainment too at t e same time, thereby introducing an unwritten regulation curtailing the entertainment by an hour.

Government of Indáa, on the other hand, are impressing upon the hotels and restaurants the need to extend and improve their entertainment in order to provide suffi cient attractiontothe foreign tourists who are expected to come in greated numbers as a result of the Government's drive for tourist traffic. Government of India have also separately taken up with your Home Department the question of relaxing the entertainment laws so as to enable the hotels ~~and restion of relaxing the~~ and restaurants to extend their entertainment by an hour or two on special occasions. I am assured by the Hotel and restaurant Association that this extension will not be determent l to the interests of labour, as they will be paid extra wages. I am sure the waiters will have no objection to this proposal, as it will enhance their income by way of overtime-wages and tips. I am also given to understand that the Hotel Waiters Union havenno objection to te waiters and butlers working overtime provided they get the overtime wages. Hotels are also willing to adopt the shift system, if necessary.

The concessions stated above apply solely to h the western style hotels and restaurants which the foreign tourists are likely to patronise.

1 In this connection it may be mentioned that some
minimum staff of the hotels should be available at all hours
to attend to the of oddd- time arrivals. It is pointed out
that a few of the international airlines sometimes reach
Bombay at odd hours in the night.

2. It has also been represented that the existing rates for hotels in Bombay is not based ona rational formula. and needs revision It is stated that under the present rates hotels are hardly able to make both ends meet. As governmennt of India have repeatedly requested the hotels to improve their standards in the West, it is desired that some revision should be made in the existing rates. It is mentioned that the accommodation situation in Bombay has now ceased a little and the supply is more than the demand. This is perhaps due to the present off season or to private accommodation being more readily available on account of the builai ng which has set in. It is understood that many of the permanent readdents in Hotels in the Fort area have been able to find their nown accommodation and have left the hotels.

In view of the above and in view of the fact that some incentive to hoteliers should be given to improve their accommodation and amenities, a more rational system of rates can possibly be evolved. The hoteliers are reluctant to undertake any improvement unless they know that there is going to be sufficient return for their investment. It is learnt that the Hotel and Restaurant Association have already furnished your Controller, of Hotels with a formula known as the 'Hubbart Formula' which is adopted by the American Hotel Association for arriving at a fair rate. Though it may not be possible to strictly adhere to that formula, it can possibly be amended to suit local needs.

3. Since the Government of India are anxious to assist the hotel industry in its efforts toimprove the standard of hotels as part of their drive for promotion of tourist traffic, it is requested that the Bombay Government may give due consideration tothe points raised above, and advise me of their decisions so as to enable me to communicate the same to the Ministry of Transport.

Yours faithfullym

S/d G.R.KADAPA.

Shri N.K.DRAVID, I.C.S.
Secretary,
Labour Department,
Government of Bombay,
Secretariat,
BOMBAY.

3 Branch has alfady noted separately an para 1 of this letter. F. Branch is concerned with the contents of para 2 of this letter and the followigg remarks are ~~approved~~. offiered.

2. Under Section 23(1) of the Rent Control Act, the Controller of Hotels can fix a fair rate to be charged for boardk lodging or othr service provided in a hotel or lodging house at such amounts as, having regard to the circumstances of the case, he deecues just. It is ~~deer~~ clear from this, that there can be no hard and fast rule for fixing the fair rates for hotels. Each case is considered as its ~~secure inerits~~ own merits by the concide Controller ~~paper the rates~~ before the rates are finally fixed. The complained made to the Regional Tourist Office, Bombay, by Hotels here that the existing rates are not based ~~are~~ on any rational formula and need revision in, therefore, ~~misconcouncil~~ misconceived. If any particular Hotel is not satisfied with the rates fixed by the Controller, it can appeal to Government under Section 42. The Hotels can also apply to the Controller to revise the rates when with the passage of time the circumstances under which t e rates were first fixed hence changed. The Controller has the power to revise rates ~~order Secretary~~ under Section 34 of the Act. As therefore, there, is alfady sufficients provision in the Act, as it stands, to give Hotel Owners a fair deal , thrre is now necessity at all for the Controller suomotu to revised any of the rates already fixed. If any particular Hotels have any special greevanfes, they can approach the Controller, in the the-matter.

3. The statement made at "A" in the Government of India does not seen to be quite correct. The ~~having~~ housing shortage, especially in the City, is as acute as ever. If Hotels have not a full house throughout the year, it is due more to the particular season when the inflax of visitors is less E.g. the rainy season, then to the fact that the accommodation situation in Bombay has eased. This Department is not aware of the "Hubbarl Formula" which is adopted by the American Hotel Association for earning at a fair rate, and which the Hotel and Restaurant Association of Bombay, have furnished to the Controller of Hotels. Whatever that formula may be it is doubtful whether it can be adopted in Bombay where circumstances are different namely there are known no public bars in hotels like before.

4. Perhaps before informing the Regional Furist Officer of the position as recontained in the above paras, we may call for the remarks of the Controller of Hotels on para 2 of the letter under submission

Office of the Controller of Ho... and Lodging Houses.

With reference to the extract of a demi-official letter dated the 11th August 1950, from the Regional Tourist Officer. Government of India, addressed to the Secretary Labour and Housing Department forwarded to this Office for remarks, I am to submit my remarks as follows:-

2 The Regional Tourist Officer had informed me that he would like to discuss with me the question of hotel rates raised by him in his demi-official letter to the Secretary , Labour & Housing Department, and I accordingly saw him this week, when the points relating to the Hotal rates were discussed. The observations and suggestions made by him are mentioned in the following remarks on the extract of his letter about the hotels rates.

3 The fair rates for a Hotel or a lodging house are fixed according to the circumstances of each case. The rates fixed are open to revision. The orders passed by the Controller, are appealable , the appellate authority being the Government. The x main basis for fixing the fair xrates is the cost. The cost is determined on a scruti of the hotel's accounts, with due regard to the standard of the hotel and other factors bearing on the cost on the cost. This cost covers all the items of expenditure including maintenance repairs and replacements and sundry expenditure. Depreciation is also a counted. for. The cost is allocated between rooms and food section including the restaurant if the hotel runs a restaurant. Besides the expenditure on foodstuffs , a portion of the other expenditures connected with the food section including wages and salaries, is debited to food section ad the charge for board including profit is arrived at on the basis of the number of boarders. IN the case of the hotels running a restaurant, restaurant profits are taken in to consideration while determining the charge for full board, the restaurant being an

restaurant being an integral part of the hotel. If the hotel runs a bar also, a portion of the hotel cost exluding food cost is debited to bar, taking into consideration the size of the bar income. While fixing the fair rates for rooms on the basis of the cost debited to rooms, the average rate of occupancy or in other words vacancies, and loss of income on account of bad debts are taken into considerationand the fair rates for rooms are fixed taking into consideration the floor area and situation. The fair rates for apartmentxs are so fixed as to allow a fair net profit over the cowt which is round about 10%. It is in no case less than 10%.

4. The Regional Tourist Officer has referred to the formula known as"Hubbart Formula' adopted by the American Hotel Association for a rriving at a fair rate, stating that the Hotel Association has already furnished the Controller with this formula and that although it may not be strictly adhere to that formula it can possibly be amended to suit local needs. It was a representative of the Taj Mahal Hotel and not the hotel Asaiciation, who referred to the said fomula and provided me with a copy of the article thereon in a hotel mazagine published in America, in connection with the case of fixing the fair rates in respect of t he Taj Mahal Hotel. This formula is determining adequate rates for rooms i.e. lodging with service other than board, so as to cover costs and provide a fair profit equivalent to a reasonable return of 10% or 60% according to the Local conditions, on thepresent fair value of the property. In accordance with this formula, the amount to be real ised from guest room subs to cover costs and yield a

In this connection I may state that the representative of Taj Mahal Hotel has filed a statement strictly on the basis of the Hubbart formula and the rates arrived at according to the formula are much higher than what the hotel is charging atpresent, the main reason being the amount of fair pro it which is estimated as Rs 6,00,000/- per annum or Rs. 50,000/- per month. Another point to be noted in this connection is that very few hoel proprietors in Bombay are the landlords of their hotel premisee and premisee and therefore the basis for a fair profit adopted in the Hubbart formula cannot be applicable in the case of most of the hotels in Bombay.

6. It is difficult to believe that under the present rates the hotels are hardly able to make both endorsement meet. The hotel rates Control is in force in Bombay since 1944 and all the hotels, the ratesfor which have been constrolled are functioningsatisfactorily. Asstated earlier thek fair rates are o pen to revision and the fair rates of a number of hotels have been raised. The fair rate for a single room in the Ritz, a leading high class hote, which was Rs. 11/8/- per day before its rates were first revised in November 1948, now stands at Rs. 16/8/-. Besides the c rrent profits the hotels must have gor accumulated profits and it is reasonable to expect a hotel. proprietor to utilise a reasonable portion of the pfofits in effecting improvements in his hotel. These previous profits in the case of hotels running Restaurant and Bar should be fairly high as bar profits particularly were considerable. In the a case of leading hotel, the bar profits for 1949/1950 worked out to bout Rs. 10,000/- per month and taking into consideration the hotel expenditure debited to bar while determining the fair rates for the hotel, the bar profits amounted ad about Rs. 6,500/- p.m. It is mentioned that the accommodation situation in Bombay has now eased a little and the supply is more than the demand. In this

connection I may state that somehotels Proprietors had also mentione to me recently that the number of vacant rooms has increased. The main reason in my opinion for these vacancies is that the present season i.e. May to September is orginarily comparatively slack and vacancies may now be on the whole a little high the reasons for which may be the availability of flats, particularly flats on care taken basis and little increase in the number of hotels and lodging houses in Bombay. It does not however appear that the accommodation section in general has eased to any appreciable degree.

7. What is stated herein before was mentioned in brief to the Regional Tourist Officer whom I met this week. He stated that the hoteliers however contend that they are not in a position to undertake any improvements etc. unless they are assured of a sufficient return ovet the investment. He observed that bar and restaurant profits formed a major portion of the hotel's profits and the overall profits may have much dwine dwindled on account of a fall in the reataurant profits formed a major portion of the hotel's profits and the over all profits may have much dwindled on account of a fall in the reataurant and bar income as a result of prohinition, and that the hotel proprietors might say that if they have any accumulated profits they are utilized for the purposes of usual renovations and replacements and mentioned that the Grant Hotel management had infomned him that they were going to spend about Rs. 1,00,000/- on improvement in the dining room i.e. reconstructing redecorating refurnishing and air- conditioning of the dening room He was therefore of the opinion that the hotel and owners may be given an incentive to improve the standard of the hotel and increase the amenties in the interest of the tourist traffic, in the form of a

Submitted with reference to the o.w. of the 14/8/1950 on the P- 3-5.

2 Please see the remarks of the Controller of Hotels on the P- 7-13 ante.

In para 3 of his note on P-7-8 ante, the Controller has explained how he fixes at present the fair rates per a hotel or lodging house The fair rates are so fixed as to allow in almost every case a fair net profit over the cost which is removed about 10%. round

Paras 4 and 5 of the Controller's note on P-8-10 ante de scribbe the Hubbarb Formula" referred to in para 2 pf Shri Kadapa's d.o. letter on p-1-2 ante. Out the reasons mentioned at "A" on p- 10 ante, th Controllerhas shown why it is not practicable to adopt this formula here as a basis for fixing fair rates.

For the reasons given in para 6 of his note, the Controller considers that the present fair rates fixed paid by him for the Hotels in Bombay are quite satisfactory and need on Re vision.

3. The Controller has discussed this case personally with Shri Kadapa, the Regional Tourist Officer, Bombay and on the basis of this discussion his find/recommendation is as at"B" in para 8 of his note on P-12 ante regarding he recommends that where a Hotel Owner really makes substantial improvements to his Hotel the fair rates far room can be raised so as to give the owner a return of 6% on the amount spent an improvements, in addition to the present 10% margin of profit allowanced over the recoverring expen diture, under the existing fair rates, However, it will be per the Owners concerned who actually

Owners concerned who actually make substantial improvements to their hotels to approach the Controller in this matter and not for the Controller to raise the rates in such cases suo

4. The reference made in the concluding portion of para of para 8 of the Controller's note on P.12-13 ante about the suggestion of the Hotelie owners Association for fixing two separate fair rates per hotels, are for the slack season and another for the busy season has already been disposed of. The Association is being informed separately that it is per than to approach the Controller for fixation of these two separate rates.

5. We may agree generally with the various views expressed by the Controller for in his note on P 7-13 ante

(a) that it is not practicable to adopte the Hybbard formula for fixation of Tourists for dixation of fair rates per hotels here;

(b) That the present basis followeed by him per the fixation of fair rates for hotels and lodging houses in satisfactory and needs no changes;

(c) that where owners of Hotels to make substantial inprononments to their hotels ; the question of increasing the existing fair rates for rooms reasons so as to allow then a return of 6% on the amount spent on impreseenments may considered. Such increases to be considered and made only upon on application from the owners concerned to the Controller.

6. If the proposals madexx in para 5 above are approved Shri Kadapa may be informed inspect on these line-s in reply to para 1 of his d.o. letter on p 1-2 an-te,.

Discussed with Shri Kadapa today. He will send a separate letter about. exempting about 10 hotels from the closing hour provsaion of the Shops Act.

As for noted rates, he will advise, the hotel concerned to get rate revised if there is justification for it such as new amenities or reallocation of overhead charges due to bar and Restaurant.

No action on these papers is now required.

21/- N.K.D
22/11

MKP.2.7

H.&.H.D.*

Submitted for information

Mr. Howenstine of the I.L.O. arrived in Bombay last evening. Shri Fernandes Superintendent F Branch will be accompanying Shri C.R.DESAI, Housing Commissioner, on an inspection tour of the Housing Colonies with Mr. Howenstine, this morning.

Shri Fernandes gave instructions that Shri Rajadhyaksh and Shri De Silva of F Branch, could inform the officials and persons concerned, that a discussion on housing will be held at Council Hall this afternoon at 3 p.m.

29-11-50

MKP.2.7

The property of an evacuee vests in the Custodian under section 8 of the Administration of Evacuee property Act, 1950, for purposes of administration, preservation and management thereof and although such Custodian is a Government servant, the property vesting in him cannot be considered Government property. The leases of evacuee properties can be divided into two classes, (1) those granted or entered into before the 14th day of August, 1947, and (2) those granted or entered into after the 14th day of August, 1947. So far as the leases falling under class (1) are concerned, in P.R. Mayak V. Benjen Bharucha (53 B.L.R. 654) it was held by Shah J. :-

> "In whatever view of the case, the Custodian is entitled to demand possession and obtain it by exercising his authority under section 9 of the Act only in those cases where the person in occupation has no right to remain in possession after the termination by the Custodian under section 12(1) of the Act of his right of occupation. A tenant in possession of premises, which are evacuee property, is a much entitled to claim protection of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, as any other tenant, and a mere termination of a contractual tenancy granted by the evacuee or the Custodian in whom the property is vested does not terminate the right of the tenant to claim protection of the Statute."

This decision was challenged in an appeal but the point whether protection of the Rent Control Act could be claimed by the tenant of the evacuee property was left open and the R.L.A. in his Opinion No. 19634/A, dated 24th November 1952, opined that although the point has not been finally decided, still the opinion of Shah J. in the aforesaid case is entitled to respectful consideration until it has been actually dissented from in any subsequent case. So far that decision of Shah J. has not been dissented from and consequently the lessees of those leases granted or entered into prior to 14th August, 1947, would be entitled to the protection of the Rent Control Act, although the contractual leases can be terminated by the Custodian. So far as the leases falling under class (2) are concerned,

P.T.O.

the. Custodian has power to terminate them or to amend the terms thereof notwithstanding anything contained in any other law for the time being in force (see section 12 sub-section (1). But the termination of these leases or amendment of the terms would ordinarily be done only if the Custodian is satisfied that the transaction has not been entered into the in good faith or for valuable consideration (see section 40 sub-section (4). The proper view to take in this case would be that subject to the powers of the Custodian to terminate any lease or to amend its terms, the provisions of the Bombay Rent, Hotel and Lodging House Rates Control Act, 1947 may apply to the tenancies created by the Custodian in so far as they are not inconsistent with the Administration of Evacuee Property Act, 1950

Remembrancer of Legal Affairs.

U.R. to R.H.D. No 11522/A dated the 21st May 1953